

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 432 – HB 1286

April 11, 2017

SUMMARY OF ORIGINAL BILL: Creates a new class C felony offense for knowingly possessing a telecommunications device while present in any penal institution and using the device to commit (1) an offense while acting in concert, (2) aggravated assault, (3) robbery, (4) aggravated burglary, (5) coercion of a witness, (6) coercion of a juror, (7) escaping a penal institution, or (8) any felony drug offense under Tenn. Code Ann. § 39-17-417—manufacturing, delivering, selling, or possessing a controlled substance.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Expenditures – \$3,878,200/Incarceration*

SUMMARY OF AMENDMENT (007133): Deletes and rewrites the proposed legislation to reduce the proposed classification to a class E felony and limit the offenses for which the device was used to coercion of a witness, coercion of a juror, and escape from a penal institution.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Increase State Expenditures – \$1,582,000/Incarceration*

Assumptions for the bill as amended:

- Statistics from the Department of Correction (DOC) show an average of 1,536 incidents per year that involve a prisoner being caught with a mobile phone. It is assumed that four percent (61.44 incidents) are used to commit one of the offenses enumerated above.
- According to the DOC, the average operating cost per offender per day for calendar year 2017 is \$68.75.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will account for seven (61.44 x .1178) additional admissions for a total of 68 (61 + 7).
- The average time served for a class E felony is 1.4 years.
- According to the DOC, 33.2 percent of offenders will re-offend within one year of their

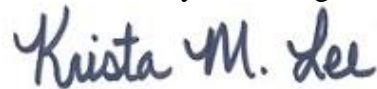
release. A recidivism discount of 33.2 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by this bill as amended. It is assumed that the re-offender would have committed the subsequent offense at the same felony level as under current law (68 offenders x .332 = 23 offenders).

- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 45 offenders (68 offenders – 23 recidivism discount) serving an additional 1.4 years (511.35 days) for a total of \$35,155 (\$68.75 x 511.35 days). The cost for 45 offenders is \$1,581,975 (\$35,155 x 45).
- DOC houses inmates in 15 facilities. The proposed legislation will create approximately three new felony cases per facility. The 20th (Davidson County) and 22nd (Giles, Lawrence, Maury, and Wayne counties) will be impacted the most as each contains multiple DOC facilities. The proposed legislation will create approximately nine new felony cases in the 20th judicial district and six in the 22nd judicial district.
- However, it is assumed that the courts, district attorneys, and public defenders can accommodate the impact to their caseloads within their existing resources.

**Tennessee Code Annotated § 9-4-210 requires an appropriation from recurring revenues for the estimated operation cost of any law enacted after July 1, 1986 that results in a net increase in periods of imprisonment in state facilities. The amount appropriated shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista M. Lee, Executive Director

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